# SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

### I. EXECUTIVE SUMMARY

Officer	Allega	tion Finding
<sup>III.</sup> ALLE	EGATIONS	
Involved Individ	lual #1:	, DOB: Male, Black
Involved Officer	· #2:	Appointment: , 2013, Police Officer, Unit of Assignment: , DOB: , 1985, Female, Hispanic
Involved Officer	:#1:	of Appointment: , 2013, Police Officer, Unit of Assignment: , DOB: , 1984, Male, Hispanic
body.  II. INVO	LVED PARTIE	S
underneath his bo struggling to get	ody. The officers	repeatedly ordered to relinquish his hands. While still fficer used hand stuns and kneed about his
		open the front gate. Officer conducted an emergency was faced toward the ground with both hands concealed
ran throug	gh an alley, throug	gan fleeing on foot, disregarding the officers' verbal commands. The a backyard, and into the front yard where he was stopped by
conduct a street s	stop at 2900 W. I	oximately 2:34p.m. Officers and attempted to Madison. As they approached the subject (now known to be
Time of COPA	Notification:	9:45 p.m.
Date of COPA Notification:		March 28, 2018
Location of Incident:		2909 W. Warren Blvd.
Time of Incident:		2:46 p.m.
		, , , , , , , , , , , , , , , , , , ,

<sup>&</sup>lt;sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Officer	It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer	
	1. Threw to the ground without justification in violation of Rules 2 and 9.	Exonerated
	2. Struck about the body without justification in violation of Rules 2 and 9.	Exonerated
	3. Called a "Motherfucker" in violation of Rule 8.	Sustained
	4. Stopped without justification in violation of Rules 2 and 6.	Not Sustained
	5. Arrested without justification in violation of Rules 2 and 6.	Exonerated
	6. Improperly deactivated his Body Worn Camera in violation of Rule 6.	Sustained
Officer	It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer :  1. Stopped without justification in violation of Rules 2 and 6.  2. Arrested without justification in violation of Rules 2 and 6.	Not Sustained Exonerated

# IV. APPLICABLE RULES AND LAWS

#### Rules

Rule 2: Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.

Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.
Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
Special Orders
S03-14: Body Worn Cameras
General Orders

G03-02: Use of Force

G03-02-01: Force Options

#### **INVESTIGATION<sup>2</sup>** V.

# a. Interviews

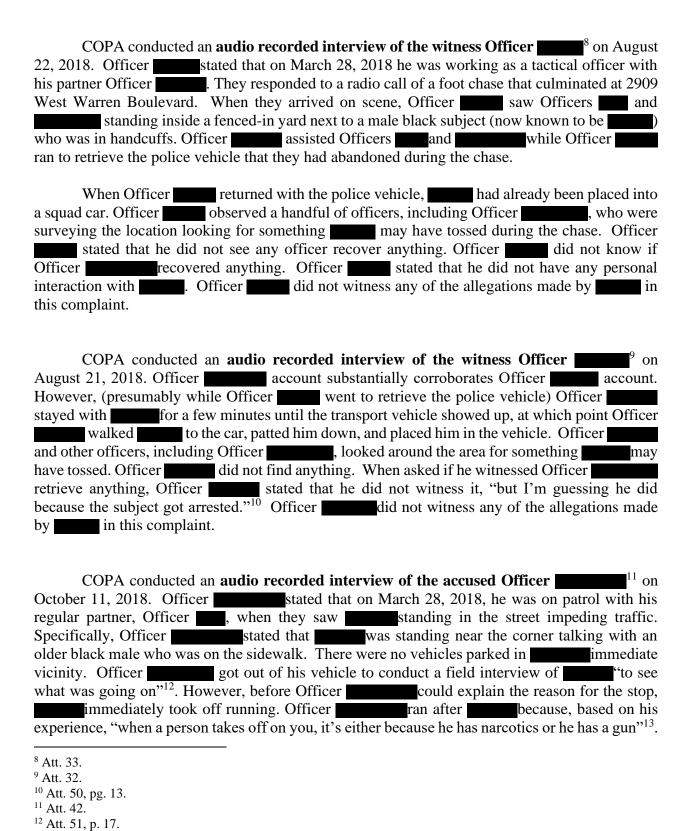
COPA conducted an <b>audio recorded interview of</b> on April 23, 2018.
During that interview, stated that, on March 28, 2018, he was talking to his friend
and uncle. They were standing behind uncle's car which was parked next to the
curb. stated that a police car drove up and stopped near where they were standing.
stated that he suffers from Schizophrenia and is not always in his "right mind" <sup>4</sup> . For that reason,
he sometimes fears the police. When the police officers (now known to be Officers and
opened the door to exit the vehicle, ran. stated that Officer
ran after him and the chase ended in the front yard at 2909 W. Warren when gave up and
stopped running. At that point Officer caught up with punched him, and threw
him to the ground. Officer then told to put his arm behind his back, but he was
in a position where he was unable to do so. told Officer , "I can't. I can't. I'm
tryin'. I'm tryin'." Eventually, the officers were able to place in handcuffs.
that, once he was placed in handcuffs, Officer kneed him in the head, neck, and back,
and repeatedly punched him in the ribs. While this was happening, was laying with his
stomach on the ground. Stated that, during this struggle, Officer was standing next to
Officer and did not participate in the struggle or the arrest.
was the only one who put hands on him and "the female officer didn't do anything
wrong" <sup>6</sup> .
During the interview, stated, "I can't remember everything because I take meds."
When asked about his medications, indicated that he had not taken any that day or for
nearly a week prior. also stated that he went to the doctor two weeks after the arrest to
check the injuries that he suffered during the arrest. He indicated that he had been suffering
headaches and a sore shoulder. stated that he waited to go to the doctor because he thought
he could deal with the injuries on his own.
alleged that Officer chased him for no reason and then used excessive
force on him once he was already in handcuffs. Said that Officer claimed he found a small has of drags ever where
found a small bag of drugs over where had been standing prior to the chase. However,
was never charged with possession of any drugs.
<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence
gathered and relied upon in our analysis.

<sup>&</sup>lt;sup>3</sup> Att. 3.

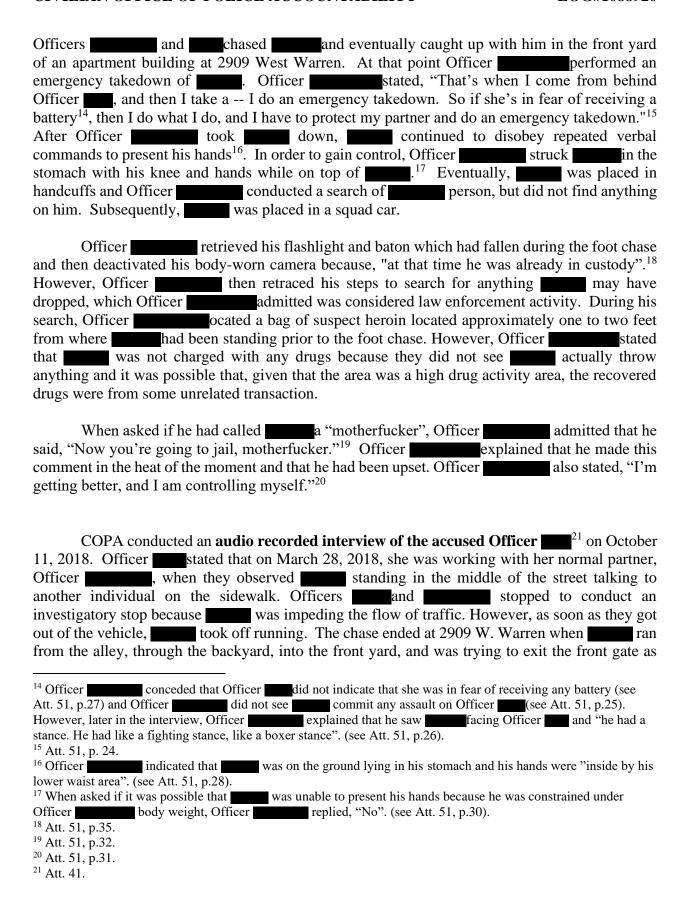
<sup>&</sup>lt;sup>4</sup> *Id.* at 6:26. <sup>5</sup> *Id.* at 8:29.

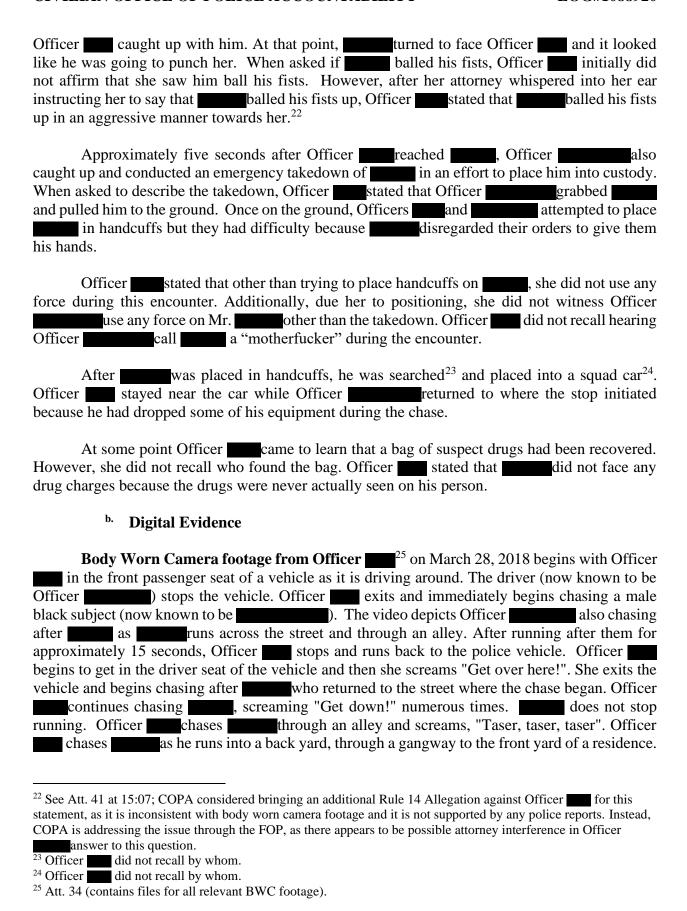
<sup>&</sup>lt;sup>6</sup> *Id*. at 18:25.

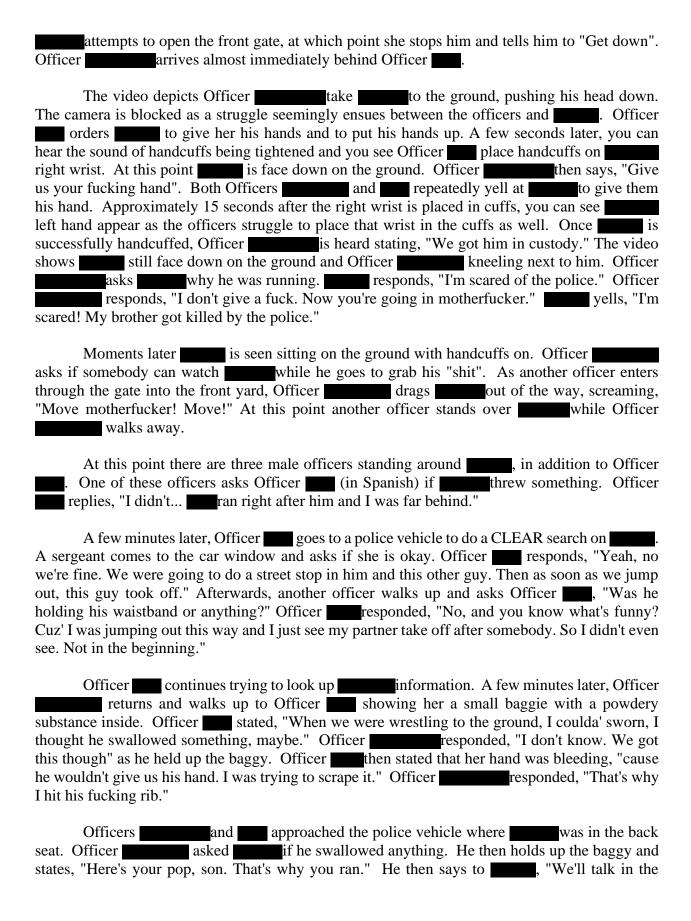
<sup>&</sup>lt;sup>7</sup> *Id.* at 12:01.



<sup>13</sup> Att. 51, p. 20.





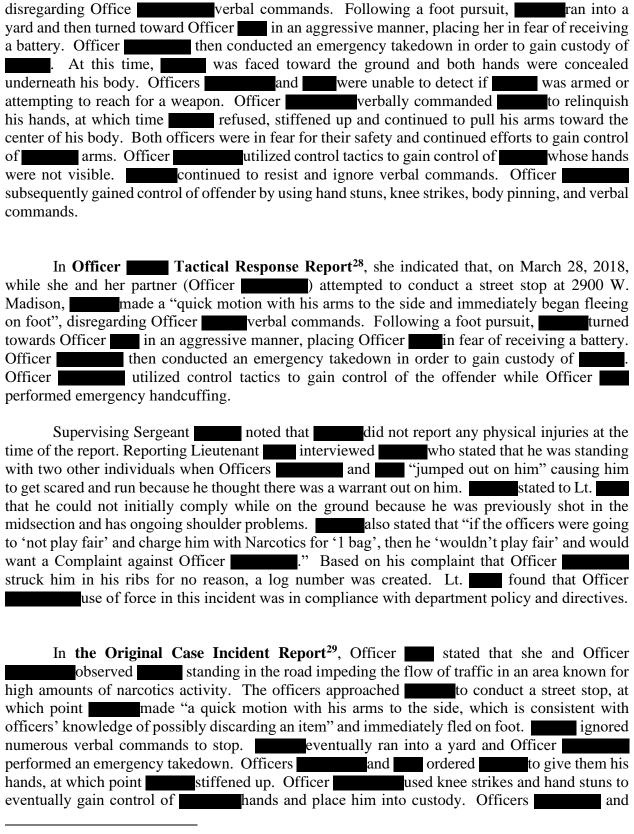


station. Right now I'm upset. You know what I'm saying? I'm upset. I gotta put my hands on you. You know what I'm saying? You're resisting arrest, I could throw all these charges."

A few minutes later, Officers and are talking with two other officers on the sidewalk. One of the officers asks Officer if she cut herself. The officer then jokes that he is disappointed she didn't use her MMA moves. Officer then states, "Oh I stuck him!"
Body Worn Camera footage from Officer starts while a chase is already underway. Officer is behind a female officer (now known to be Officer ) who is chasing a male subject (now known to be down an alley. Officer body worn camera footage largely captures the same events as Officer Only additional footage will be summarized here.
During the struggle to place second (left) hand in cuffs, Officer is seen kneeing in the neck while ordering him to give him his hand. Immediately after this you hear what sounds like another blow to seconds later, you hear handcuffs being tightened.
After Officer walks away from the scene of the arrest, he retraces his steps through the backyard and the alley until he finds his asp lying on the ground. He picks it up and then walks back to the scene of the arrest. He says to another officer, "We saw him right on the corner of Madison and Francisco. That's where we saw him. And as soon as we went to go stop him, he took off." A few seconds later, Officer stated that he was going "to go backtrack" and he starts walking toward the backyard. At that point Officer turned off his body worn camera.
c. Physical Evidence
Medical reports for
d. Documentary Evidence
In <b>Officer</b> Tactical Response Report <sup>27</sup> , he indicated that, on March 28, 2018, while he and his partner (Officer) attempted to conduct a street stop at 2900 W. Madison, made a "quick motion with his arms to the side" consistent with Officer experience "as if to possibly discard a narcotics item."

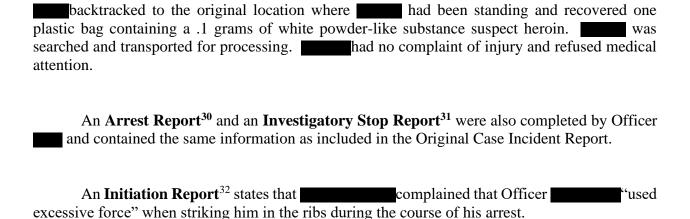
<sup>&</sup>lt;sup>26</sup> *Id*.

<sup>&</sup>lt;sup>27</sup> Att. 9.



<sup>&</sup>lt;sup>28</sup> Att. 12.

<sup>29</sup> Att. 10.



#### VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> where it is determined by clear and convincing evidence that the conduct descried in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proven by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

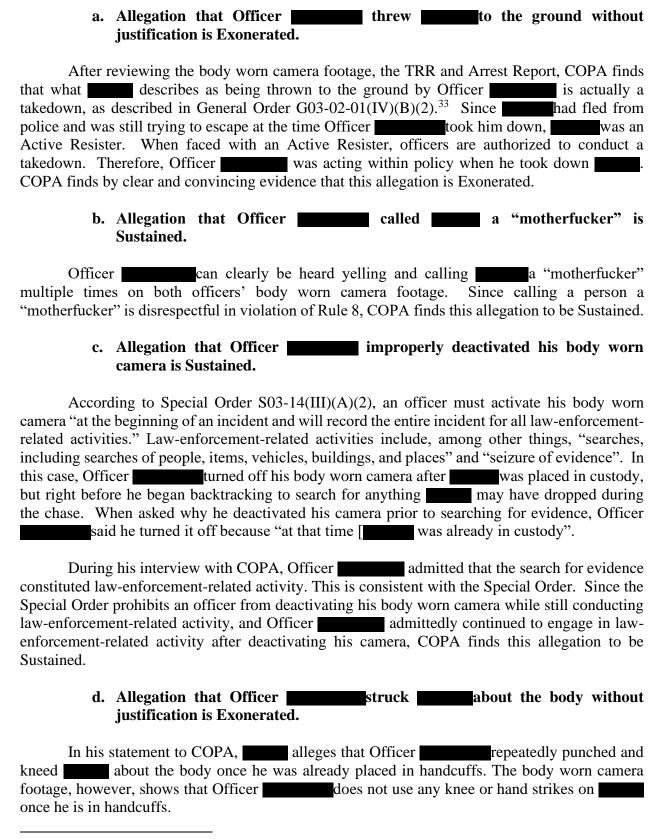
Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See e.g.,  $People\ v.\ Coan$ , 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." Id. at ¶ 28.

#### VII. ANALYSIS

<sup>&</sup>lt;sup>30</sup> Att. 11.

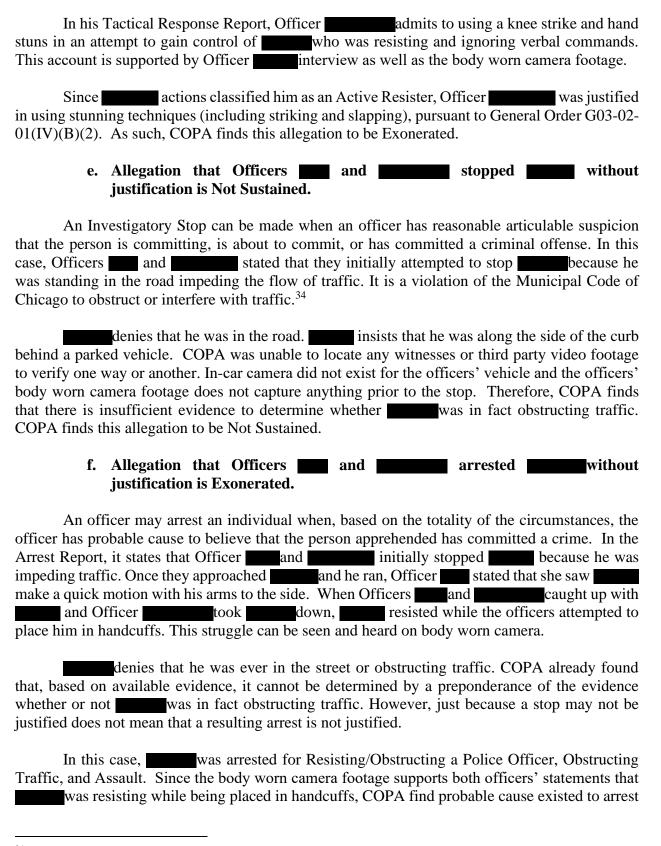
<sup>&</sup>lt;sup>31</sup> Att. 16.

<sup>&</sup>lt;sup>32</sup> Att. 8.



<sup>&</sup>lt;sup>33</sup> A takedown is "the act of directing a subject to the ground to limit physical resistance, prevent escape, or increase the potential for controlling the subject". See General Order G03-02-01(IV)(B)(2).

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<sup>&</sup>lt;sup>34</sup> MCC 9-80-180.

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As such, COPA need not determine if Officers and and had any additional justification for arresting COPA recommends that this allegation be Exonerated.

# VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS<sup>35</sup>

#### a. Officer

# i. Complimentary and Disciplinary History

Officer Complimentary History consists of 64 awards, including 51 Honorable Mention, 3 Complimentary Letters and 1Department Commendation. Officer has no prior disciplinary history.

#### ii. Recommended Penalty, by Allegation

# 1. Allegation No. 3

Officer admitted that his language was not appropriate and further, admitted to the night of the incident that he was angry he had to get physical with the not appropriate emotions got the best of him. COPA recommends a reprimand.

# 2. Allegation No. 6: Violation Noted

#### IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer	It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer	
	1. Threw to the ground without justification in violation of Rules 2 and 9.	Exonerated
	2. Struck about the body without justification in violation of Rules 2 and 9.	Exonerated
	3. Called a "Motherfucker" in violation of Rule 8.	Sustained
	4. Stopped without justification in violation of Rules 2 and 6.	Not Sustained
	5. Arrested without justification in violation of Rules 2 and 6.	Exonerated

<sup>&</sup>lt;sup>35</sup> Only include this section for investigations with at least one sustained allegation.

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	6. Improperly deactivated his Body Worn Camera in violation of Rule 6.	Sustained
Officer	It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer 1. Stopped without justification in violation of Rules 2 and 6.  2. Arrested without justification in violation of Rules 2 and 6.	

Approved:

Andrea Kersten

March 31, 2020

Date

Deputy Chief Administrator – Chief Investigator

# Appendix A

Assigned Investigative Staff

Squad#:	
Investigator:	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	Andrea Kersten